

Remarks:

Applicant has carefully studied the non-final Examiner's Action mailed 06/20/2005, having a shortened statutory period for response set to expire 09/20/2005, and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings and numbered paragraphs that correspond to the centered headings and paragraph numbering employed by the Office, to ensure full response on the merits to each finding of the Office.

Claim Rejections – 35 U.S.C. § 112

1. Claims 1 and 2 stand rejected under 35 U.S.C. § 112, second paragraph, because "said free-floating ball valve" and "said annular check valve" in claim 1 lack antecedent basis. This ground of rejection is met by inserting --valve-- after "ball" in line 5 of claim 1 and by changing "check valve" to "valve seat" in line 18.

The specification is also amended to delete the adjective "free-floating" as a modifier of the term "ball valve 18." Ball valve 18 is unconstrained and to that extent is considered "free-floating" but it is well-known in the bailer industry that a ball valve must have a specific gravity greater than the specific gravity of water so that the ball valve will sink into its annular valve seat when no water is flowing into the interior of the bailer from its bottom, *i.e.*, leading end. Thus it is felt that the ball valve is not best described as free-floating because it sinks when not lifted by inflowing water. (Typically, a ball valve is built of a material having a specific gravity of about 1.1, *i.e.*, a little greater than the 1.0 specific gravity of fresh water at most temperatures).

A period is added to the end of the second sentence of [Para 25].

Claim Rejections – 35 U.S.C. § 102

2. Applicant acknowledges the quotation of 35 U.S.C. § 102(b).

3. Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Foster. Reconsideration and withdrawal of this ground of rejection is requested for the reasons that follow.

The Foster device is a well bucket, *i.e.*, a device for emptying a well. The Foster well bucket does not remove water from a well so that laboratory tests may be performed on the water that has been removed. Accordingly, Foster is not concerned with oxygen contamination. The

Foster well bucket does not include a ball valve that rises from its seat when the well bucket is lowered into a well so that water may flow into the interior of the well bucket from the bottom thereof. Instead, Foster provides a heavily weighted hollow rubber ball filled with sand at the bottom of the well bucket to prevent the rubber ball from rising from its seat and allowing water to flow into the bottom of the well bucket. Water from the well pours into the well bucket from the top of the bucket. Since the well bucket is filled with air when it is lowered into a well, the well water mixes with the air already in the bucket and becomes very oxygenated as it flows into the hollow interior of the well bucket from its top end. The water thus collected is not suitable for laboratory analysis due to the high oxygen content thereof.

More importantly, the sand-filled rubber ball (spherical valve D) of Foster protrudes slightly from the bottom of the well bucket, but most of said rubber ball does not protrude therefrom, as perhaps best understood in connection with Fig. 1 of Foster. This limits the size of the drain opening and therefore increases the time required to drain the well bucket.

Significantly, the Foster rubber ball depends from the well bucket to substantially the same extent that the ball valve of the admitted prior art depends from a prior art bailer. Adding together the respective teachings of Foster and the admitted prior art therefore merely reinforces either the Foster teaching or the admitted prior art teaching. Neither teaching includes any suggestion that the ball valve should have a diameter almost exactly equal to the diameter of the valve seat so that one-half of the ball valve protrudes from the valve housing.

As amended, Applicant's independent claim 1 now describes Applicant's contribution with increased precision so that said claim 1, as currently amended, can no longer be construed as reciting the contribution of Applicant as well as the contribution of Foster. Claim 1, currently amended, paints a picture of Applicant's invention and the Foster structure does not appear in said picture.

The specification has also been amended to provide clear antecedent basis for all claim terms, but no new matter is introduced by said amendment to the specification.

Claim Rejections – 35 USC § 103

4. Applicant acknowledges the quotation of 35 U.S.C. § 103(a).

5. Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art bailer depicted in Fig. 1 of this patent application in view of Foster. Reconsideration and withdrawal of this ground of rejection is requested because Foster and the

admitted prior art, when aggregated together, would not have taught one of ordinary skill to modify a bottom-entry bailer in any way at all. As noted above, the ball valve of the admitted prior art has substantially the same amount of protrusion from the valve housing as the Foster ball valve. Therefore, adding Foster to the admitted prior art would not have changed the prior art. Nothing in Foster or the admitted prior art converges toward the claimed invention. Neither teaches or suggests a ball valve seated in an annular seat having a diameter only slightly less than the diameter of the ball valve so that half of the ball valve protrudes from the valve housing.

Conclusion

6. Applicant agrees that the art made of record and not relied upon is not more pertinent to the claimed invention than the art cited.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested. Applicant thanks the Office for its careful examination of this important patent application.

Very respectfully,

SMITH & HOPEN

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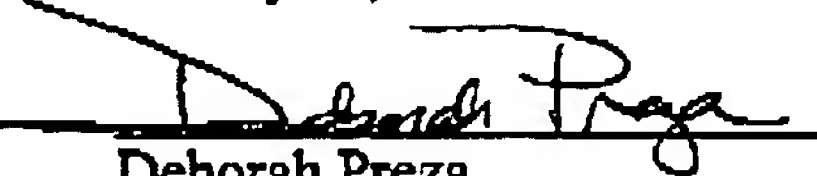
Dated: July 27, 2005

pc: Mr. David W. Pratt

CERTIFICATE OF FACSIMILE TRANSMISSION
(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment A, including Introductory Comments, Amendments to the Specification, Amendments to the Claims, and Remarks, is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3652, Attn: Mr. Dean J. Kramer, (703) 872-9306 on July 27, 2005.

Dated: July 27, 2005


Deborah Preza